

**MINUTES OF THE TOWN OF FORT EDWARD PLANNING BOARD PUBLIC HEARING & REGULAR MEETING HELD ON WEDNESDAY, OCTOBER 9, 2024 AT TOWN HALL COMMENCING AT 7:00 P.M.**

Chairman Belden called the meeting to order at 7:00pm

Pledge of Allegiance

**PRESENT:** Chairman Belden  
Valerie Ingersoll  
Donald Sanders, Jr  
Joe McMurray  
Zachary Middleton  
Max Fruchter

**ABSENT:** Dolores Cogan

**OTHERS PRESENT:** Shawn VanVeghten, Luke Mosseau (The Post Star), Whitney Hughes, Mike Borkowski, Dan McQuay, Town Engineer Chris Koenig and Planning Board Clerk Aimee Ives

**APPROVAL OF MINUTES: MOTION** by Zachary Middleton, Seconded by Joe McMurray to approve the minutes of the meeting held 9/11/2024 **ALL AYES**

**BUSINESS:**

**Public Hearing  
DMSV Property, LLC  
344 Broadway  
7:05 P.M.**

The following notice was published in The Post Star on October 1, 2024:

**PLEASE TAKE NOTICE**, the Town of Fort Edward Planning Board will hold a public hearing on Wednesday, October 9, 2024 at 7:05pm to hear comments on the proposed Site Plan Application of DMSV Property, LLC located at 344 Broadway in the Town of Fort Edward. The purpose of the application is to convert the existing building into a sports training facility. Tax Map #163.10-1-45

At the meeting anyone that wishes to comment will be heard.

**Chairman Belden opened the Public Hearing at 7:05pm**

**Public Comment:** None

**Chris Koenig:** The County Planning Department deemed the project a matter of local concern with the following 2 comments:

- That the local Board formalizes agreement with Warren/Washington IDA for the proposed site access ingress/egress from Store Access Road.
- That the proposed site access ingress/egress accommodates pedestrians.

**Chairman Belden:** Why is the IDA involved?

**Zachary Middleton:** Because Market 32 is on a PILOT.

**Dan McQuay:** We were waiting to meet with the IDA until we had this meeting; the IDA owns the access road.

**Zachary Middleton:** Once it comes off the PILOT the IDA's name will be removed.

**Chris Koenig:** Will you be doing anything with the existing lighting or adding any lighting?

**Dan McQuay:** The existing lighting will be upgraded but we will not be adding any additional lighting in this phase.

**Chairman Belden:** If we increase traffic through the existing ingress/egress, will DOT have anything to say about that?

**Chris Koenig:** It is the existing legal access to the property now and is a continuation of a commercial use.

**Zachary Middleton:** The IDA does not own the property which makes the County comment wrong.

- **Discussion was held regarding whether or not the current existing ingress/egress would require a traffic study or not.**

**MOTION** by Zachary Middleton, Seconded by Max Fruchter to not require a traffic study, they can use the existing deeded ingress/egress with the traffic lighted access being preferred if possible **Vote: Chairman Belden – NAY**

**Valerie Ingersoll – AYE**

**Donald Sanders, Jr – AYE**

**Joe McMurray – AYE**

**Zachary Middleton – AYE**

**Max Fruchter – AYE**

**Dolores Cogan - ABSENT**

**Chris Koenig:** SEQR review is not needed for this Type II action.

**MOTION** by Zachary Middleton, Seconded by Valerie Ingersoll to close the public hearing at 7:41pm **ALL AYES**

**MOTION** by Max Fruchter, Seconded by Joe McMurray to approve the site plan application contingent on payment of fees **ALL AYES**

**Community Power Group, LLC  
May St. Solar  
5 MW Solar Array**

**Mike Borkowski:** We are the owners of this property, MDB Equity Partners, LLC. We bought the property in 2021 and we are working with DK Machine right now; they would like to purchase 0.5 acres of this parcel for additional parking spaces needed to expand operations. When we purchased this property in 2021 solar was an approved use with site plan approval, we have a sign off that it is an approved use, a signed interconnection agreement with the utility, we have paid for all of our upgrades and have all of our NYS incentives. The project is ready to go but they are upgrading the substation off May St. and they want us to wait until the substation is done. Originally the substation was supposed to be done in 2026 which moved to 2027 and now they are telling us it may not be operational until 2028. This project will not go online until 2028. The solar panels will be more efficient in 2-3 years so the site plan will be changing between now and then. The project hasn't changed much since we first met in 2021 and we are coming now to get the site plan because we aren't sure if something will change in the course of a few years. We may have a site plan adjustment in 2025 or 2027 in which case we would come back before the Board.

**Chairman Belden:** You are looking to get approval good through 2028?

**Mike Borkowski:** Yes, we have looked at the Town Code and seem to be in compliance with everything except for one thing. We have had discussions with the Town Engineer about the lot coverage. The Town Code has a lot coverage requirement of 40% but how the 40% is interpreted has been inconsistent in our view. When we came here back in 2021 we had a letter from NYSERDA saying it was an approved use and we submitted the project to NYSERDA, the subdivision happened in May/June 2021 and we made the purchase in July of 2021. We carved out this 30 acre piece on the assumption that it would meet the lot coverage ratio of 40%. The 40% is only utilizing the panels, even if you included the full envelope it's still under the 40%.

**Zachary Middleton:** When we talked about it at the initial meeting it was only the panels because the way the law was written did not say a farm it says solar panels; we did not count the area in between the panels as part of it for lot coverage.

**Mike Borkowski:** NYSERDA issues an advisory guide on creating solar by-laws. In the State's advisory for by-laws they talk about lot coverage and they give a whole explanation on how lot coverage is typically utilized for determining SWPPP and storm water management. They give 2 different scenarios of model code law.

**#1** – a. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.

b. All mechanical equipment of the Solar Energy System, including any pad mounted structure for Battery Energy Storage System Components, Switchboards, or transformers.

c. Paved access roads servicing Solar Energy System.

**#2** - Lot coverage. The Tier 3 Solar Energy System shall not exceed [60%] of the lot where it is installed. The surface area covered by Solar Panels shall be included in total lot coverage.

The Town Code does not call that out so it is subject to interpretation but we bought this land and carved it out meeting the lot coverage ratio.

**Chris Koenig:** The envelope is the edge of the array and the spacing between the panels (10'-12') not including the space between the fence and the array or other open areas. From a coverage perspective how much land does the array occupy? The argument is more of a land use coverage perspective and also what we have applied for Blodgett Rd., Dolan & Somers is the envelope itself. The Dolan project received an Area Variance for exceeding lot coverage from the Zoning Board of Appeals.

**Zachary Middleton:** the Town Code says the Solar Collectors shall not exceed 40% lot coverage. This law covers both commercial and residential.

**Donald Sanders, Jr:** I think we set a precedent with our last 3 solar projects to try and change it now.

**Chris Koenig:** Yes and the applicant would need an Area Variance from the Town Zoning Board or if there is uncertainty about the Town Code you can appeal that to the Zoning Board. How should the Code be applied by the Planning Board?

**Zachary Middleton:** The Code says solar collectors.

**Chairman Belden:** We will have to notify the Village Board as well as County Planning of both the public hearing and the SEQR Coordinated Review.

**Mike Borkowski:** Wetland Delineation and SWPPP will be done.

**MOTION** by Zachary Middleton, Seconded by Max Fruchter to declare the Town Planning Board Lead Agency for SEQR Review **ALL AYES**

**Mike Borkowski:** There will be minimal traffic during construction; we will do a plan outlining that.

**Chairman Belden:** How long do you anticipate construction lasting from start to finish?

**Mike Borkowski:** 3-4 months.

**Valerie Ingersoll:** What changes do you anticipate in 3 years' time?

**Mike Borkowski:** We may cover less acreage in 3 years due to panel upgrades.

**Donald Sanders, Jr:** CS Energy took the time to get the Area Variance needed so I think all projects should follow the same procedure.

**BOARD CONSENSUS:** Apply to the Zoning Board of Appeals for the lot coverage issue.

- **Project placed on the agenda for December 11, 2024 for SEQR Review**

**ADJOURNMENT:**

**MOTION** by Zachary Middleton, Seconded by Max Fruchter to adjourn the meeting at 8:51pm  
**ALL AYES**

Dated: October 17, 2024

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Aimee Ives, Planning Board Clerk